

**STATEMENT**  
**OF**  
***THE ALLIANCE OF AUTOMOBILE MANUFACTURERS***

**BEFORE:**  
  
**The Subcommittee on  
Commerce, Trade and Consumer Protection**

**MAY 17, 2006**

**PRESENTED BY:**  
  
Michael J. Stanton  
Vice President, Government & International Affairs  
Alliance of Automobile Manufacturers

Thank you for the opportunity to testify before the Subcommittee on Commerce, Trade and Consumer Protection regarding H.R. 2048 the “Motor Vehicle Owners’ Right to Repair Act of 2005.” I represent the Alliance of Automobile Manufacturers (Alliance), a trade association of nine car and light-truck manufacturers. Our member companies include BMW Group, DaimlerChrysler Corporation, Ford Motor Company, General Motors Corporation, Mazda, Mitsubishi, Porsche, Toyota Motor North America and Volkswagen of America. One out of every ten jobs in the U.S. is dependent on the automotive industry.

Alliance member companies have more than 600,000 employees in the United States, with more than 230 manufacturing facilities in 35 states. Overall, a University of Michigan study found that the entire automobile industry creates more than 6.6 million direct and spin-off jobs in all 50 states and produces almost \$243 billion in payroll compensation annually.

Historically, about 75 percent of vehicle service and repairs are performed in non-dealer shops. Automakers view these non-dealer shops as important players in providing service to their mutual customers, the driving public. Just as motor vehicles have become more complex, the servicing of them has also become a high technology business requiring skilled, trained technicians and a sizeable investment in diagnostic and repair equipment. Automakers provide independent repair technicians access to training information, specialized tools, and service and repair information necessary for servicing their customers’ vehicles.

Almost 500 million non-warranty service events are undertaken each year. While we make every attempt to ensure every element of information is readily accessible for every one of

these aftermarket repair events, we recognize that with literally millions of pages of service and repair information that need to be accessed for these repairs, there will be instances where needed information may not be readily available or apparent. The automakers try to correct these gaps as quickly as possible. There are situations, however, where access to some information is neither reasonable nor appropriate – such as information to override immobilizers that are part of theft deterrent/security systems or overwrite vehicle safety or emissions operating software.

In 2000, the National Automobile Service Task Force (NASTF) was created to facilitate the identification and correction of gaps in the availability and accessibility of automotive service information, service training, diagnostic tools and equipment, and communications for the benefit of automotive service professionals. NASTF is a voluntary, cooperative partnership between automakers, the independent aftermarket repair community, the automotive equipment and tool industry, automotive trainers, locksmiths, suppliers, the insurance industry, law enforcement, auto dealers and others. The NASTF inquiry process, which has been highly publicized for several years in major trade publications like *Motor* and *Motor Age Magazines*, has received only 57 requests for help obtaining information for all of 2005. In other words, aftermarket repair technicians requested access to repair information in .00000019 percent of all repair attempts. That is six zeros to the right of the decimal point! Of the 57 inquiries, most were resolved to the satisfaction of the requestors. The NASTF complaint process is well established at this point, readily accessible on the Internet (at [www.nastf.org](http://www.nastf.org)) and every request for information and its respective solution is transparent on the International Automotive

Technicians Network, a well-recognized Internet forum of over 48,000 professional independent and dealership automobile repair technicians.

Working together, the volunteers at NASTF have implemented web based links to every automakers' service information website with contact information. NASTF has succeeded in improving communications between automaker engineering groups and the Equipment & Tool Institute to ensure that scan tool information is readily available to aftermarket tool manufacturers. NASTF has reached out to the locksmith community and the National Insurance Crime Bureau and established the NASTF Vehicle Security Committee to address the controversial and highly complex issues surrounding methods to provide information to automotive security professionals without compromising vehicle security and customer safety.

Since its inception, automakers and the Automotive Service Association (ASA), the nation's largest association of independent repair shops and technicians have invited all other interested parties to participate in the NASTF voluntary process.

Last month, NASTF established a board of directors to oversee the organization and update its mission, vision, and structure. The Board also elected officers at this meeting. The Chairman of the NASTF Board is with the Equipment and Tool Institute. The Vice-Chairman is with the Automotive Service Association and the Secretary/Treasurer is with the Alliance of Automobile Manufacturers. The Board then chose the National Institute for Automotive Service Excellence (ASE) to provide day-to-day management of NASTF. The Alliance believes the formalizing of NASTF is another major step that ensures service information, tools, and training

will continue to be available to independent repair facilities. Six organizations (The Motor Equipment Manufacturers Association, The Equipment and Tool Institute, The Associated Locksmiths of America, The Association of International Automobile Manufacturers, The Automotive Service Association, and the Alliance of Automobile Manufacturers) have pledged to fund NASTF for the first year.

### **H.R. 2048**

Turning to the text of H.R. 2048, we continue to have concerns about the need for this legislation. We also have substantial concerns about the language of the legislation and at several points its apparent intent.

The findings of the legislation are unnecessarily harsh and factually inaccurate in many cases. The language is unfair to the automakers that have made significant investments in human and financial resources to provide convenient access to service information and tools to all independent automotive service providers 24 hours a day, 7 days a week. Automakers have already demonstrated their commitment to making service information and tools available and have been doing so for some time. Although a small number of important issues were identified during our negotiations with the Coalition for Auto Repair Equality (CARE) Coalition, we did not hear allegations of any widespread breakdown of the systems established to resolve service information and tool gaps. For this reason, we strongly take issue with the statements in the “findings” section of the bill that concludes that automakers have systematically engaged in “a manner that has hindered open competition.” This simply is not true. Since “anticompetitive

behavior” is illegal under federal and state law, branding all automakers with this unfounded conclusion is both unreasonable and places them at legal risk.

Moreover, the findings address an issue that goes beyond the scope of the legislation: namely, whether consumers should always be able to choose between original parts and aftermarket parts for vehicle repairs. This issue quickly fell off the table during Better Business Bureau discussions and is not appropriate for the findings portion of this bill.

The legislation is not precise in describing the scope of what is being sought by the proponents of the bill. For example, the language appears to confuse “service information” with information to design diagnostic “tools.” It also appears to override the standard and accepted practice of providing some service and training information to the independent service providers by alternative means other than that used to communicate with dealers. The satellite networks and programs used to communicate with dealers cover a wide variety of business support services and are not appropriate for use by independent repair facilities. However, hard copies of materials or CD-ROMs of the relevant portions of these broadcasts are often used to provide the relevant information on service/repair issues to independent facilities. EPA intentionally carved out this provision from its service information rules because automakers cannot be expected to build special delivery infrastructures for the aftermarket. The CARE Coalition has not otherwise sought access to the satellite-based information delivery system of the manufacturers, and this legislation should not force changes in the current practices.

Section 3 of H.R. 2048 requires “the same service and training information related to vehicle repair shall be made available to all independent repair facilities in the same manner and extent as it is made available to franchised dealerships, and shall include all information needed to activate all controls that can be activated by a franchised dealership.” This would include, in the case of most automobile manufacturers, vehicle security information, the release of key codes, and release of immobilizer override information. This would compromise the security systems that have been found to cut auto theft by more than 50 percent and jeopardize consumers’ anti-theft insurance discounts. This is in direct conflict with the purposes of the Motor Vehicle Theft Acts of 1984 and 1992 that provided a limited exemption from parts marking for antitheft devices determined by NHTSA to be as effective as parts marking in reducing motor vehicle theft. The effectiveness of these systems, which are now in 75 percent of new models, has been confirmed by the Highway Loss Data Institute and a recent study by JP Research, Inc.

As another example, the text in Section 3 would also require making the “same diagnostic tools *and capabilities* related to vehicle repair” available to the independent service provider as are available to franchised dealers. We do not know what is intended by the word “capabilities” in this context. It could mean that manufacturers would have to grant access to their dealer “hot lines,” which are used to provide one-on-one diagnostic help to dealers who call for technical assistance. Virtually all of these “hot line” requests are while the vehicle is still under warranty.

In addition Section 3, coupled with the “Findings and Purposes” section create an atmosphere of promoting lawsuits under State “little FTC laws.” This will lead to an explosion of litigation and the likely release of proprietary information.

We also strongly object to the language in the bill that says that failure of a manufacturer to comply is automatically “an unfair method of competition and an unfair or deceptive act or practice in or affecting commerce” under the Federal Trade Commission Act. While automakers will always strive to comply with any Federal Trade Commission (FTC) regulation, minor discrepancies should not give rise to an automatic pre-determination that they reflect the very serious charge of being “an unfair method of competition and an unfair or deceptive act or practice.” The FTC has ample authority and established legal standards to decide when a regulatory violation constitutes “an unfair method of competition” or “an unfair or deceptive act or practice.” In fact, the Center for Auto Safety has petitioned the FTC (March 13, 2006) to “...investigate the practices of auto companies in not releasing programming information for smart keys and charging exorbitant fees for nominal programming costs.” To establish a new regulatory requirement would be redundant and unwarranted based on the lack of a documented problem.

Finally, the issues H.R. 2048 attempts to address have never been documented or quantified. In addition, it would:

- Create a new federal bureaucracy to oversee the very small number of complaints raised each year about lack of information availability.



- Establish a process for pursuing state lawsuits based on the “right” to this information and the “duty” for automakers to provide whatever is deemed necessary.
- Jeopardize the intellectual property and proprietary information of automakers regarding parts design and vehicle operating systems. Aftermarket parts manufacturers want to produce competing repair parts and may allow parts that do not meet original equipment specifications, safety or emissions requirements to be used in repairs or vehicle modifications.
- Require the release of information on vehicle security systems and result in increased vehicle thefts.

The Alliance, AIAM, ASA and NADA and others continue to address service information issues as they arise and believe that legislation is not needed to further this process. We strongly support the recent formalization of NASTF, and we will continue to improve the NASTF program that identifies occasional gaps in service information and ensures that these gaps are quickly remedied. H.R. 2048 would create an unneeded federal bureaucracy to replace the existing voluntary process of providing information and resolving disputes. The FTC and the Better Business Bureau have both testified before Congress that the best way to address issues relating to service information is through a voluntary, non-regulatory organization -- not legislation. H.R. 2048 may well undermine the unprecedented cooperation between automakers and the aftermarket repair community and quite possibly destroy the voluntary program (NASTF) developed to deal with service information issues.

###